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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
STALIN RODRIGO REYES ESPINOZA,

PLAINTIFF,

-against-

Index No.: 515197/2019

DAVS PARTNERS LLC AND KALNITECH  
CONSTRUCTION COMPANY,

DEFENDANTS.

-----X  
COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
STALIN RODRIGO REYES ESPINOZA,

PLAINTIFF,

-against-

ASK ELECTRICAL CONTRACTING CORP.,  
DEFENDANTS.

-----X  
DATE: April 5, 2023

TIME: 10:05 A.M.

(DEPOSITION OF DAVID KLEEMAN)

Page 2

1

2 DATE: April 5, 2023

3

TIME: 10:05 A.M.

4

5

6 VIRTUAL ZOOM EXAMINATION BEFORE  
7 TRIAL of the Defendant, DAVS PARTNERS LLC,  
8 by DAVID KLEEMAN, taken by the Respective  
9 Parties, pursuant to an Order, held  
10 remotely at the date and time above, before  
11 May Jean Wu, a Court Reporter and Notary  
12 Public of the State of New York.

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2 A P P E A R A N C E S:  
3

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29 990 Stewart Avenue Suite 400  
30 Garden City, New York 11530  
31 BY: GEORGIA ALIKAKOS, ESQ.

32 \* \* \*

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1 KLEEMAN

2 A. Yes.

3 Q. I apologize. There was some  
4 audio delay for which I apologize.

5 Sir, we've been talking about  
6 A.S.K. Electrical, the company that you've  
7 been working with or for. That's A.S.K.  
8 Electrical Contracting Corporation, is that  
9 correct?

10 A. Yes, at that time that is  
11 correct at that time.

12 Q. Okay, there have been some name  
13 changes?

14 A. Correct.

15 Q. Okay, is there a newer version  
16 of that? Is there a newer name or newer  
17 version or is that the name?

18 A. Yes, it's the A.S.K. Electrical  
19 Corp., which was the latest one that I  
20 stated that was the current.

21 Q. Okay, thanks.

22 Do you remember what was the  
23 name of the company before that?

24 A. A.S.K. Electrical Contracting  
25 Corp.

1 KLEEMAN

2 Q. Forgive me, sir, but the new  
3 name is what?

4                   A.           A.S.K. Electrical Corp., we  
5                   dropped the "Contracting".

6 Q. Thank you.

7 It's just the word  
8 "Contracting"?

9 A. Yes.

10 Q. Thank you.

11 Sir, so the lease is between  
12 A.S.K. and who? Who's the owner or the  
13 landlord?

14                   A.        That would be Davis Partners  
15       over here for today.

16 Q. Okay, thank you.

17 Sir, back to the electrical  
18 company for a couple of moments, I'm going  
19 to ask you about employees, ownership and  
20 things like that. Sir, do you have any  
21 ownership interest in the electrical  
22 company, A.S.K.?

23 A. I do.

24 Q. Okay, and you're the full  
25 owner? You're a partial owner? Who are

1 KLEEMAN

2 Q. Okay, soon after the  
3 construction started?

4 A. Correct.

5 Q. Okay, thank you.

6 Sir, was there a general  
7 contractor?

8 MR. GASTMAN: Off the record.

9 (Whereupon, an off-the-record  
10 discussion was held.)

11 Q. Back on the record, sir, was  
12 there a general contractor hired to assist  
13 on this project?

14 A. Yes.

15 Q. Who was the general contractor  
16 company, please, for this project?

17 | A. Kalnitech.

18 Q. Sir, was there a written  
19 agreement or a contract for Kalnitech to  
20 come in as the general contractor?

21 A. Yes.

22 Q. Thank you.

23 Sir, do you know who prepared  
24 the contract? Did Kalnitech prepare it and  
25 hand it to A.S.K. or did A.S.K. prepare it

1 KLEEMAN

2 that we used to do a lot of work for. He  
3 branched out and was leaving them and went  
4 out on his own. I believe this was the  
5 first job he did.

6 Q. Thank you.

11 A. The company that he worked for?

12 Q. Yes, yes.

## 13 A. Masterpiece.

14 Q. Masterpiece, thank you.

15 Sir, I'm going to ask you a  
16 questions about who hired who next. Sir,  
17 was Kalnitech hired by A.S.K. to do the  
18 work?

19 A. Yes.

20 Q. Okay, thanks.

21 Did A.S.K. hire any other  
22 contractors or subcontractors to assist on  
23 the project?

1 KLEEMAN

2 was going to be done?

3 A. It was a fit-out of an empty  
4 building, offices. You know, electrical  
5 contractor's offices basically was exactly  
6 what it is.

7 Q. Thank you.

8 Also a shop or just offices?

9 A. There was a shop. Yeah, it was  
10 decided into some office space and some  
11 shop space and some storage space.

12 Q. Okay, thank you.

13 Sir, this renovation project,  
14 was the building built up or out or the  
15 footprint of the building remained the  
16 same?

17 A. The footprint of the building  
18 remained the same. As I mentioned earlier,  
19 it was a fit-out of the first floor.

20 Q. Okay.

21 A. And the basement.

22 Q. Thank you.

23 Sometimes fit-outs include some  
24 other things. I'm just asking.

25 Sir, were there any

1 KLEEMAN

2           Q.     I apologize, sir. I'm trying  
3     to follow from what you said recently. You  
4     said that you would meet with your project  
5     manager or somebody. Maybe I didn't hear  
6     it.

7           A.       That was Gus, the owner. The  
8       GC was Gus, to meet with him about project  
9       management. That's what I said.

10 Q. Okay.

11                   A.        He would meet with my foreman  
12                   to review the progress of his work.

13 Q. Thank you.

14 This is the foreman from  
15 A.S.K.?

16 A. Correct.

17 Q. Okay, thank you.  
18 What is that person's first  
19 name?

20 A. Dwayne at the time.

21 Q. Was that Mr. Hudson? Is that  
22 the same gentleman?

23 A. Yeah, Dwayne, Dwayne Hudson,  
24 that was the foreman.

25 Q. Thank you.

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1 KLEEMAN

2 answer?

6 MS. ALIKAKOS: Okay, thank you  
7 so much.

8 Q. Sir, with regard to Gus,  
9 Kalnitech, sir, if you know, was Gus there  
10 day to day or did he stop in from time to  
11 time, if you know?

## 12 A. Everyday.

13 Q. What was his schedule on the  
14 project?

15 A. He was there everyday. That  
16 was what he was getting paid to do.

17 Q. Okay, the expectation was Gus  
18 himself, he would be there pretty much  
19 everyday other than a sick day or a  
20 vacation day, et cetera?

21 A. Correct.

22 Q. Okay, sir, my next few  
23 questions will be about paper work that may  
24 or may not have been generated for the  
25 project. That's a little road map.

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1

KLEEMAN

2

to just withdraw it and rephrase it.

3

I'm happy to.

4

MR. RAVA: Thank you.

5

MR. GASTMAN: It's okay. It's  
okay. Can you hear me okay?

6

MR. RAVA: Yes.

7

MR. GASTMAN: Okay.

8

Q. Sir, how did you first hear  
about this accident? Who told you?

9

A. I got a phone call from my  
foreman, Dwayne Hudson, that afternoon  
saying that someone got hurt and fell. He  
fell.

10

Q. Okay, was that a ladder  
accident? Is that what he told you?

11

A. Yes, someone fell off a ladder,  
correct.

12

Q. Okay, and is it your  
understanding, sir, it was one of the JM  
workers, it was one of the A.S.K. workers  
or somebody else?

13

A. It was one of the JM workers.

14

Q. Okay, alright, did Dwayne tell  
you he saw it? He saw the accident?

1 KLEEMAN  
2 look at the right side signature block. It  
3 looks like there's a name, "David Kleeman"  
4 and a signature and there's a title,  
5 "president", and it looks like there's a  
6 signature. Is that your signature, sir?

7 A. Yes.

8 Q. Did you sign this document on  
9 or about March 11, 2019?

10 A. Yes.

11 Q. Okay, do you know who drew up  
12 this contract, sir? Did you do it? Did  
13 Ms. Vanessa Kleeman do it, did Kavita do it  
14 or did someone else do it?

15           A.       That was a standard contract  
16        that was given to me by one of my brokers.

17 Q. When you say "standard  
18 contract", it was blank until you or Kavita  
19 or someone else filled out the various  
20 parts of it?

21 A. Correct.

22 Q. At the top where it says  
23 "owner" and "contractor" referring to Davs  
24 as the owner and A.S.K. as the contractor,  
25 was that something that your broker typed

1 KLEEMAN  
2 place of business at 26-60 BQE West, unit  
3 2, Woodside, New York 11377 and Kalnitech  
4 (hereinafter subcontractor)." Do you see  
5 that?

6 A. Yes.

7 Q. Have you ever seen this  
8 document before today?

9 | A. Yes.

10 Q. Okay, do you know who drew up  
11 this contract?

12           A.     Again that's a standard  
13 subcontract, a standard subcontract  
14 document, that we use for business. It's a  
15 standard agreement.

16 Q. Well, what I want to know is  
17 did someone in your office write the things  
18 that are written here by handwriting as  
19 "12th, March" and the year "2019" and the  
20 word "Kalnitech"? Did somebody in your  
21 office write that?

22 A. Yes, my office administrator,  
23 Kavita.

24 Q. Okay, did Kavita or anyone else  
25 in your office type up the document before

1 KLEEMAN

2 Do you see that?

3 A. Yes.

4 Q. In the center of the page, it's  
5 also typed "A.S.K. Electrical Contracting  
6 Corp." Do you see that?

7 A. Yes.

8 Q. Alright, and there are some  
9 signature blocks. Do you see them?

10 A. Yes.

11 Q. On the left side, there is in  
12 all capitals with a colon the word  
13 "subcontractor". Do you see that?

14 A. Yes.

15 Q. Then there's the name typed in,  
16 "Gus Stoupakis, president". Do you see  
17 that?

18 A. Yes.

19 Q. Is this the Gus that you were  
20 referring to today earlier in your  
21 testimony?

22 A. Yes.

23 Q. Earlier today, I believe you  
24 testified that Gus was the general  
25 contractor for the job, is that correct?

1 KLEEMAN

2 Q. Okay, was that table left out  
3 in the open at the end of work at the end  
4 of the day or was it placed inside  
5 somewhere or something else?

6           A.       Again I wasn't there everyday,  
7           so I can't answer that question because  
8           every time I came there the table was in a  
9           different place.

10 Q. Okay, alright, now if I heard  
11 you correctly -- and correct me if I'm  
12 wrong -- you hired some of the  
13 subcontractors for the site, is that  
14 correct, or no?

15 A. Yes.

16 Q. Okay, alright, did you hire any  
17 mechanical subcontractors for the site?

20 Go ahead. You can answer.

21           A.        There was a plumber.   Again you  
22        have to remember in the industry, you know,  
23        we work with other contractors, so, yes, I  
24        had brought in a couple of contractors.

25 O. Okay, and I'm trying to find

1 KLEEMAN  
2 out specifically what were the other  
3 subcontractors that you brought in, and  
4 when I'm referring to "you", I'm referring  
5 either to you as David Kleeman or David  
6 Kleeman as, I believe, the president of  
7 A.S.K. Electrical. Fair enough?

8 A. Yes.

9           Q.     Alright, so I'm going to ask  
10        you again in your capacity as the president  
11        of A.S.K. Electrical bring in or hire any  
12        mechanical contractors or subcontractors  
13        for the site?

14 MR. RAVA: Note my objection.

15 You can answer.

16 A. Yes.

17 Q. Alright, and the same question,  
18 did you or did A.S.K. Electrical hire any  
19 HVAC contractors or subcontractors for the  
20 site?

21 MR. RAVA: Just note my  
22 objection.

23 You can answer.

24 A. Yes.

25 Q. Okay, did you or did you in

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1 KLEEMAN  
2 your capacity as the president of A.S.K.  
3 Electrical hire any plumbers for the site?

6 Go ahead.

7 A. Yes.

8           Q.        Okay, did you or you in your  
9 capacity as the president of A.S.K.

10 | Electrical hire any masons for the site?

11 MR. RAVA: Objection.

12                   A.        No, Kalnitech brought in the  
13                   masons.

14 Q. Okay, did you hire any other  
15 subcontractors besides mechanical, HVAC or  
16 plumbers?

17 A. A roofing contractor.

18 Q. Okay, now when you hired any of  
19 these subcontractors, mechanical, HVAC,  
20 plumbers or roofing, did you or in your  
21 capacity as the president of A.S.K. sign  
22 any contracts with any of these  
23 subcontractors?

24 MR. RAVA: Objection.

25 You can answer.

1 KLEEMAN

2 discussion was held.)

3 Q. Let's talk about JIM. I think  
4 before we were calling it JM, but I think  
5 the company is JIM Associates, am I right,  
6 sir, or correct me if I'm wrong.

7 A. JIM Associates, I believe.

8 Q. Right, and JIM Associates was  
9 also a subcontractor at this jobsite,  
10 weren't they?

11 A. Correct.

12 Q. Okay, did you hire JIM  
13 Associates, did Gus hire them or something  
14 else for the jobsite?

15           A.     Well, Gus had a relationship  
16     with them prior. He brought them in and  
17     they worked in terms of the contract. Gus  
18     just said, you know, pay them directly.  
19     Towards the end of the job, they were doing  
20     all the finish work. Gus just said, you  
21     know, pay them directly.

22 Q. Well, as you said, Gus said to  
23 pay them directly. Does that mean that JIM  
24 Associates received payment from A.S.K.  
25 Electrical or from some other entity?

1 KLEEMAN

2 A. From A.S.K. Electrical.

3 MR. RAVA: Off the record.

4 (Whereupon, an off-the-record  
5 discussion was held.)

6 MR. RECCHIA: Can I have the  
7 last question and answer, please?

8 (Whereupon, the referred to  
9 record was read back by the court  
10 reporter.)

11 Q. Did A.S.K. Electrical sign a  
12 contract or enter into a contract with JIM  
13 Associates for this job?

14 A. Yes.

15 Q. Okay, did you sign that  
16 contract on behalf of A.S.K.?

17 A. I believe so.

18 MR. RECCHIA: Okay, alright,  
19 again to the extent that it hasn't  
20 already been provided, which I don't  
21 think it has, I will call for a copy  
22 of the contract between A.S.K. and  
23 JIM. Of course, we'll put it in  
24 writing.

25 MR. RAVA: I'm objecting to any

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1 KLEEMAN

2 MR. RECCHIA: Thank you.

3 Q. Alright, did you yourself ever  
4 supervise JIM Associates at the jobsite?

5 MR. RAVA: Objection to the  
6 question.

7 You can answer.

8 A. Did I supervise JIM? Did I  
9 ever supervise JIM?

10 Q. Yes, did you ever supervise JIM  
11 at the jobsite?

12 A. I discussed their work with  
13 them if you want to call that supervising,  
14 but did I discuss their work? Yes, with  
15 Gus, yes, I have.

16 MR. RECCHIA: Counselor, I wish  
17 you would let the witness answer and  
18 not interrupt.

19 MR. RAVA: He answered the  
20 question.

21 Q. Could you please finish your  
22 answer, sir, if you did not finish?

23 A. I'm finished.

24 MR. RECCHIA: I'll just note  
25 for the record that counsel

1 KLEEMAN

2 A. No.

3 Q. Alright, did you ever learn  
4 that Dwayne Hudson testified that you were  
5 responsible for scheduling the work on the  
6 site?

7 MR. RAVA: Objection.

8 You can answer.

9                   A.        The electrical work I would  
10        schedule, yes.

11 Q. Did you ever schedule any of  
12 the other work by any of the other  
13 subcontractors on the site?

14 MR. RAVA: Objection.

15 You can answer.

16 A. Depending on the subcontractor.

17 Q. Is that a yes for some  
18 subcontractors?

19 MS. ALIKAKOS: Objection to the  
20 form.

21 A. Yes.

22 Q. Okay, can you tell us what  
23 other subcontractors you would schedule  
24 some work for or the work for?

25 A. I scheduled the fence guy to

1 KLEEMAN

2 come in early on in the job.

3 Q. Okay, with any other  
4 subcontractors besides the fence guy?

5 A. No.

6 Q. Okay, did you ever schedule any  
7 work for the mechanical contractors?

8           A.       All work was scheduled through  
9        Gus and Kalnitech because he was running  
10      the project.

11 Q. Okay, did you ever schedule any  
12 of the work done by any of the HVAC  
13 subcontractors?

14                   A.        Again everything was scheduled  
15                   through Gus in coordination.

16 Q. Okay, did you ever file any  
17 documents, you as the president of A.S.K.  
18 or as a vice president of Davs ever file  
19 any documents, with the New York City  
20 Department of Buildings listing A.S.K. as  
21 the GC for the project?

22 MR. RAVA: Can I hear the full  
23 question back? I couldn't hear the  
24 beginning part of the question.

25 (Whereupon, the referred to

1 KLEEMAN  
2 was it your testimony that Gus of Kalnitech  
3 was still involved with working on this  
4 project?

5 MR. RECCHIA: Note my  
6 objection.

7           A.        Yes, he was here.  He was still  
8        here everyday.

9 Q. Do you know if Gus ever  
10 supervised the work of the JIM employees?

11           A.       Gus supervised the work of all  
12       trades except for my electricians.

13 Q. The JIM employees, I know you  
14 said that was finishing work. Just explain  
15 that to me. What did that finishing work  
16 entail?

17                   A.     Painting, molding, tile,  
18     flooring.

19 Q. Not the electrical work,  
20 correct?

21 A. No.

22 Q. Did Dwayne Hudson ever issue  
23 any payments or submit any payment  
24 requisitions or anything like that in  
25 connection with this project?

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1 KLEEMAN

unless Mr. Gastman wants to ask any.

3 MR. GASTMAN: No, we've had  
4 enough testimony for one day.

5 MR. RECCHIA: Alright.

6 | EXAMINATION BY

7 MR. RECCHIA:

8 Q. Mr. Kleeman, you just testified  
9 that Gus was onsite everyday during the  
10 work conducted by JIM. Do you remember  
11 that?

12 A. Yes.

13 Q. Okay, I'd like to ask you what  
14 the basis of your knowledge of that is.  
15 Did you personally see Gus? Would there be  
16 any records or logs that would reflect that  
17 Gus was there everyday or something else?

18 A. Yes, Gus was there to the end  
19 until we closed the job out, till the end.

Q. Is that based on your visual  
observation of Gus being there, is it based  
on --

23 A. Yes.

24 Q. (Continuing) someone telling  
25 you or something else?